REPORT ON THE 2019 SESSION OF THE NEVADA LEGISLATURE

With the general election in November 2018, Nevada Democrats gained control of both houses of the Legislature and the Governor's office for the first time in a generation. In the Assembly, Democrats held an advantage of 29 seats to 13 for the Republicans, giving Democrats a veto-proof two-thirds majority, while in the Senate the Democrats fell one seat short of the two-thirds mark, holding 13 seats to the Republicans' 8. After several vacancies in the Senate and Assembly were filled by women, Nevada became the first state in the country with a majority female Legislature.

Steve Sisolak was sworn into office as Governor on January 7, 2019. In his inaugural State of the State address on January 16, he set forth his priorities for the coming legislative session:

Education. The Governor promised to modernize Nevada's school funding formula and increase state financial support for K-12 education. He also recommended a 3-percent salary increase for teachers and said that he would allocate a portion of the proceeds of the tax on marijuana to pay for violence-prevention programs and personnel in the public schools.

Economy and employment. The Governor announced the creation of a Cannabis Compliance Board, modeled on the Gaming Control Board, to regulate the state's marijuana industry. He expressed support for efforts to raise the state minimum wage, ensure equal pay for equal work and guarantee paid leave for employees.

Environment. The Governor asked the Legislature to raise Nevada's renewable portfolio standard to 50 percent by 2030. He declared that he would continue to resist efforts to make the nuclear waste repository at Yucca Mountain operational.

Health care. The Governor said he would establish a Patient Protection Commission to review the health care system in Nevada and make recommendations relating to the control of prescription drug prices. He promised to support and defend the Affordable Care Act, including its protections for people with preexisting conditions.

Government. Citing projected increases in general fund revenue, the Governor declared that his recommended budget did not include any new taxes, and he committed to route $45 million during each year of the biennium to the state's rainy-day fund. He argued to restore the law on the use of prevailing wages in public works projects, including schools, to what the law had been before 2015. The Governor recommended a 3-percent pay increase for state employees and committed to authorize collective bargaining for them "in the years ahead." He said he was committed to working with the Legislature and local election officials to expand early voting and implement same-day voter registration.

Criminal justice. The Governor vowed to implement the background checks initiative, outlaw bump stocks and prevent persons subject to protective orders from purchasing firearms. He promised additional money for mental health and substance abuse programs, and more staffing to handle the increased caseload of the Parole and Probation Division. Finally, he said there would be an increased investment in a pilot program to provide education and skills training for inmates.

The 80th Regular Session of the Legislature began on February 4 and ended a few minutes before midnight on June 3, 2019. During that 120-day period, more than 1,150 bills and resolutions were introduced. There was concern expressed at the beginning of session about an apparent "anti-business" agenda among legislators and the influence of organized labor and the trial lawyers' lobby in the Legislature. Indeed, in their initial form, some of the measures discussed below would have been difficult for our clients to live with. For the most part, however, we found legislative leadership and the Governor's Office to be receptive to our concerns and willing to accept amendments that made measures at least workable from our standpoint.

This is not to say that Progressives have abandoned their remaining legislative objectives, and Progressive influence is likely to increase with the presidential election in 2020. The coming redistricting, to occur in Nevada after the census in 2020, will significantly affect the decision-making and policy processes of the next Legislature. With redistricting likely to favor the current majority for the next decade, many legislators may conclude that any "threat" is from the left and act accordingly to reinforce their Progressive credentials with their base. The probable result in the 2021 session will be renewed efforts to raise taxes, expand regulatory authority and social services, provide additional rights to workers and consumers, and adopt more stringent environmental protections. Over the coming months, we will discuss with our clients the strategies we think are necessary to solidify our influence among policy-makers, build public support for our positions and protect against Progressive overreach.

In this report, we summarize by topic the legislative measures that we believe are of interest to our clients. Most of the measures summarized have become or shortly will become effective. In some cases, as this is written, a few measures enacted by the Legislature are still awaiting signature by the Governor. We also discuss some proposals that generated interest or concern but ultimately failed to find favor with the Legislature.

If you have questions about any measure, please feel free to contact us. We look forward to continuing to work with all of you in the months and years ahead.

BUSINESS

Fleet of vehicles owned by short-term lessor (A.B. 177). This bill requires the Department to establish a vehicle registration program that allows a short-term lessor to register and renew the registration of a fleet of vehicles. The Department is required to issue for a vehicle registered in such a manner a permanent certificate of registration and a permanent decal for the license plate, which remain valid for as long as the lessor continues to renew the registration and maintain the vehicle in the fleet. The Department must provide electronic notification to the lessor of the renewal requirements for each vehicle in the fleet. A lessor that participates in the fleet registration program must pay the annual renewal fees and governmental services taxes required for each vehicle registered in this State and must notify the Department whenever a vehicle is removed from the fleet. (Effective May 14, 2019, for administrative purposes and January 1, 2021, for all other purposes.)

Revisions to statutes governing business entities (A.B. 207). This bill revises various provisions of Nevada's law governing corporations and other business entities. Among other things, the bill authorizes a corporation to include in its articles or bylaws a forum-selection provision mandating that certain actions involving the corporation must be brought in the court or courts specified in the provision. The bill also revises provisions relating to: (1) the production of corporate records upon demand by a stockholder or other authorized person; (2) the "business judgment rule;" (3) the rights of dissenting stockholders; (4) the acquisition of a controlling interest in an "issuing corporation;" (5) the process for amending articles; (6) the indemnification of certain persons by a corporation; and (7) other matters too numerous to list here. We recommend that clients ask their legal counsel to review the provisions of this and similar bills (e.g., S.B. 45, summarized below) to identify any authorized or required changes in their governing documents or operating practices. (Effective October 1, 2019.)

Reinstatement of right to transact business (A.B. 347). Under existing law, the right of a business organization to transact business in Nevada is subject to forfeiture if the business fails annually to file certain information and pay certain filing fees to the Secretary of State. This bill establishes a process whereby a "local emerging small business" (as defined by existing law) may obtain reinstatement of its right to transact business by paying at least 25 percent of the delinquent fees and penalties owed and, if it fails to pay the entire amount owed, entering into a payment plan for the balance due. (Effective May 28, 2019.)

Business impact statements (A.B. 413). Under existing law, if the governing body of a local government proposes to adopt an ordinance or other "rule" and determines that its proposed action is likely to impose a significant burden on a business or restrict the formation, operation or expansion of a business, the governing body must prepare and consider a business impact statement. This bill initially provides that a governing body's failure to comply with these requirements, as amended by the bill, renders void its adoption of the proposed rule. The bill also provides that any business impact statement must be considered by the governing body in a public meeting at least 10 days before the meeting at which the rule is adopted. Finally, the bill makes the governing body's failure to comply with these requirements a basis for the filing of an objection to an adopted rule by any business aggrieved by the rule. (Effective October 1, 2019.)

Revisions to Nevada New Markets Jobs Act (A.B. 446). The Act, adopted in 2013, provides a mechanism whereby insurance companies, working through "qualified community development entities," receive tax credits by making loans to businesses in low-income communities. The 2013 legislation authorized the Department of Business and Industry to approve $200 million in insurance company investments, for which approximately $116 million in tax credits have been received to date. With the initial $200 million having been fully allocated, this bill authorizes the allocation of an additional $200 million on and after July 1, 2019. The bill also clarifies various provisions of the relevant statutes and specifically precludes a business that receives any of several tax abatements from also qualifying as a low-income business unless it timely waives the abatement. (Effective July 1, 2019.)

Consumer form contracts (A.B. 477). This bill enacts the "Consumer Protection from the Accrual of Predatory Interest After Default Act," which imposes various limitations relating to a retail charge agreement or a retail installment contract, collectively referred to as a "consumer form contract." Such contracts involve the purchase of goods or services from a "retail seller" by a human being primarily for personal, family or household purposes. Among other things, the bill

prohibits or limits the use in such a contract of choice of law provisions, forum-selection provisions, and certain waiver, indemnification and confidentiality provisions. The bill also limits the recovery of costs and attorney's fees and the accrual in interest in any action to collect a "consumer debt," defined as a debt incurred by a human being primarily for personal, family or household purposes. Certain businesses are exempted from the bill, including a motor vehicle manufacturer or distributor, or an affiliate or captive financial entity of a motor vehicle manufacturer or distributer. (Effective October 1, 2019.)

Department of Taxation records (S.B. 32). This bill generally makes records of the Department of Taxation relating to disciplinary action taken by the Department confidential to the same extent as the Department's records relating to the administration and collection of any tax, fee or assessment. Similarly, the disclosure of records of disciplinary action is authorized under the same circumstances as provided for other records of the Department. Under the bill, the Department may disclose information in its records to a state or local law enforcement agency or regulatory agency. The Department is newly authorized also to disclose the identity of a licensee against whom disciplinary action has been taken by the Executive Director of the Department, once the action has become final or has been affirmed by the Nevada Tax Commission. Finally, the bill also provides for the disclosure of certain information relating to applicants for registration or licensure under chapter 453A (medical marijuana) or 453D (recreational marijuana) of NRS. (Effective May 10, 2019.)

Business law revisions (S.B. 45). This bill clarifies the provisions setting forth the circumstances under which a person is deemed not to be conducting a business in Nevada and hence is exempt from the requirement to obtain a state business license. Additionally, the bill eliminates the authority of certain businesses, including certain partnerships and business trusts, to maintain at their registered offices the list of owners or principals and other records required by statute to be maintained by such a business; instead, such a business is required to maintain the records at its principal places of business or with its custodian of records. (Effective May 16, 2019.)

Savings bonds as unclaimed property (S.B. 75). This bill provides that 3 years after a United States savings bond becomes unclaimed property in this State, it escheats to the State, and all property rights and legal title to, and ownership of, the savings bond and its proceeds vest in the State. The bill establishes a procedure to obtain the judgment of a court that a savings bond has escheated to the State and that all property rights and legal title to, and ownership of, the savings bond and its proceeds have vested in the State. The bill requires the State Treasurer to redeem savings bonds that have escheated to the State and deposit the proceeds of the redemptions, after paying certain costs, in the State General Fund. The bill also authorizes the Administrator to pay a claim filed by certain persons who have filed a claim to the proceeds of escheated and redeemed savings bonds. (Effective July 1, 2019.)

Ticket resales (S.B. 131). S.B. 131 revises provisions of existing law relating to the resale of tickets to an athletic contest or live entertainment event. Among other things, the bill revises the notice requirements applicable to a reseller, secondary ticket exchange or any affiliate of either, and generally prohibits any such person or a primary ticket provider from reselling a ticket before it has been made available to the public. The bill also revises the venue provisions governing an action brought by any person who is injured by a violation of the ticket resale provisions and provides for an award in such an action of statutory damages, attorney's fees and costs, and

punitive damages in any case where punitive damages are otherwise authorized. (Effective July 1, 2019.)

Use of blockchains for business communications and record-keeping (S.B. 163). Existing law allows a notice or other communication given or sent pursuant to the statutes or rules governing the internal affairs of a corporation or other business entity to be delivered by electronic transmission if: (1) the date of the transmission can be determined by the recipient; and (2) delivery in that manner is consented to by the recipient or consistent with those statutes and rules. This bill revises the definition of "electronic transmission" for this purpose to include any form or process of communication occurring through the use of or participation in a blockchain. The bill also revises the existing definition of "blockchain" to include a public blockchain as defined by the bill. The bill also specifically authorizes a corporation and various other business entities to keep on a blockchain certain records that the entities are required to maintain in the regular course of business. Finally, the Secretary of State's existing authority to adopt regulations relating to the use of technology by corporations and other business entities is expanded to include a reference to the use of blockchains. (Effective October 1, 2019.)

Sale of information about consumers (S.B. 220). Under existing law, a person who operates a website or online service for commercial purposes and collects certain personally identifiable information about consumers in Nevada is required to provide a notice relating to the privacy of that information. This bill entitles a consumer to request at any time that an operator not sell any such information that the operator has collected or will collect about the consumer. The bill further requires the operator to provide an electronic mail address, toll-free telephone number or website through which such a request may be submitted. The bill excludes from the definition of "operator" any entity that is subject to the provisions of HIPAA and any manufacturer or servicer of a motor vehicle who collects, generates, records or stores personally identifiable information in connection with a technology or service related to the vehicle or provided by a consumer in connection with a subscription or registration for such a technology or service. (Effective October 1, 2019.)

CRIMINAL JUSTICE

Enhanced penalty for offense against family member of first responder (A.B. 102). Existing law establishes an enhanced penalty for any person who commits certain crimes against a peace officer, firefighter or emergency medical provider because of the victim's status. This bill extends those provisions to include an offense that is similarly motivated and committed against the spouse or child of such a person. (Effective October 1, 2019.)

Sex trafficking (A.B. 120). As introduced, this bill defined sex trafficking to include knowingly receiving anything of value from "voluntarily participating in a venture" that engaged in sex trafficking. After some of our clients who participate in "ventures" with other businesses expressed concern about this language, the bill was amended to provide that a person is guilty of sex trafficking if the person receives anything of value with the specific intent of facilitating sex trafficking. The reference to a "venture" was eliminated. (Effective October 1, 2019.)

Native Indian graves and historic/prehistoric sites (A.B. 152). This bill increases the penalties for the unauthorized removal, mutilation, defacement, injury or destruction of the cairn or grave of a native Indian, or a historic or prehistoric site on state land. The bill also prohibits receiving, trafficking in or selling cultural property taken from state land without a permit. These

offenses range from a gross misdemeanor for a first offense to a category C felony for a third or subsequent offense. (Effective July 1, 2019.)

Advancing prostitution (A.B. 166). A.B. 166 establishes the criminal offense of advancing prostitution and generally makes it punishable as a category C felony. This bill, as it evolved, was the subject of considerable discussion among our clients who own or operate hotels and other lodging establishments. However, the final language of the bill is such that it should be extremely difficult for any reasonably conscientious business owner to commit the offense. The offense requires that a person who owns, leases, operates, controls or manages any business or private property: (1) have actual or implied knowledge ("knows or should know") that illegal prostitution is being conducted on the property; (2) have actual or implied knowledge that one or more of the prostitutes engaged in such prostitution are victims of involuntary servitude; and (3) fail to take reasonable steps to abate the prostitution within 30 days thereafter. The requisite knowledge of prostitution activity is deemed to exist if a law enforcement agency notifies the owner, lessor, lessee, operator, etc., in writing, of at least three instances of illegal prostitution occurring on the property within 180 consecutive days. A person is deemed to have taken reasonable steps to abate prostitution if the person: (1) files a report of illegal prostitution with a law enforcement agency; (2) allows a law enforcement agency to conduct surveillance or an undercover operation on the property; (3) promotes an ongoing educational program for employees about illegal prostitution; or (4) uses any other "available legal means" to abate illegal prostitution on the premises. Property owners and operators should be aware that the bill provides, among other things, for the forfeiture of any "assets derived from or relating to any violation" of the foregoing provisions. (Effective June 5, 2019.)

Restrictions on firearms (A.B. 291). This bill establishes procedures for a court to issue ex parte or extended orders when a person poses a risk of personal injury to himself or herself or another person under certain circumstances. The bill authorizes a family or household member or a law enforcement officer to file a verified application to obtain an ex parte or extended order against a person who poses a risk of causing personal injury to himself or herself or another person by possessing or having under their custody or control or by purchasing or otherwise acquiring any firearm. The bill prohibits a person against whom such an order is issued from possessing or having under their custody or control, or purchasing or otherwise acquiring, any firearm while the order is in effect. In addition, the bill prohibits any person, except for employees of law enforcement or United States military personnel on official duty, from importing, selling, manufacturing, transferring, receiving or possessing any device or part (or combination of parts) designed so that when attached to a semiautomatic firearm, it eliminates the need for the operator of the firearm to make a separate movement for each individual function of the trigger and materially increases the rate of fire of the firearm or approximates the action or rate of fire of a machine gun. The bill also contains similar prohibitions regarding any modified semiautomatic firearm. The bill reduces from 0.10 to 0.08 the allowable concentration of alcohol that may be present in the blood or breath of a person who is in possession of a firearm. Finally, the bill makes it a misdemeanor for a person to negligently store or leave a firearm at a location under their control, if there is a substantial risk that a child may obtain the firearm. (Provisions relating to semiautomatic firearms and children and firearms are effective on passage and approval; other provisions are effective January 1, 2020.)

Study on driving under the influence of marijuana (A.C.R. 7). This resolution requires the Legislative Commission to appoint a committee to conduct an interim study on this subject,

and report back to the next session of the Legislature on the results of the study. Because of the connection between impaired-driving laws and impairment in the workplace, we will be following the study as it progresses. (Effective June 7, 2019.)

Background checks for sale or transfer of firearms (S.B. 143). With certain exceptions, this bill prohibits a person who does not hold a federal firearms license from selling or transferring a firearm to another unlicensed person until a background check has been performed on the buyer or transferee by a federally licensed firearms dealer. If the check indicates that the buyer or transferee is ineligible to purchase or possess the firearm, the sale or transfer must not be completed. A prohibited sale or transfer is punishable as a gross misdemeanor or, for a second or subsequent offense, as a category C felony. (Effective January 2, 2020.)

Warnings against trespassing (S.B. 221). A person who willfully goes or remains upon any land or in any building after having been warned by the owner or occupant not to trespass is guilty of a misdemeanor. Existing law prescribes various methods of giving notice that are deemed to constitute sufficient warning. This bill provides that warning may be given by the use of orange paint, fencing, posting "no trespassing" signs at prescribed locations, or using land as cultivated land and planting it with a crop. (Effective July 1, 2019.)

EDUCATION

Charter schools (A.B. 78). This bill: (1) codifies in statute the provisions of existing regulations relating to the continued authorization of a sponsor of charter schools to operate as a sponsor; (2) revises the membership of the State Public Charter School Authority to include two members appointed by the State Board of Education; (3) deems the Authority to be a local educational agency for all purposes, including the provision of special education and related services provided by each charter school sponsored by the Authority; (4) eliminates the authority of a charter school to transfer a pupil if the school determines that it is unable to provide an appropriate special education program for the pupil; (5) abolishes the Achievement School District; and (6) converts each existing achievement charter school to a charter school operating under the sponsorship of the Authority. (Effective June 3, 2019.)

Charter schools (A.B. 462). A. B. 462 requires the State Public Charter School Authority to establish a plan to manage the growth of charter schools in Nevada. The plan must set forth the status of existing charter schools and a 5-year projection of anticipated growth in the number of charter schools. The bill requires the sponsor of a charter school to provide written notice to the Department of Education and, if the sponsor is not a school district, to the board of trustees of the school district where a charter school is located or proposed to be located, as applicable, whenever the sponsor receives or is notified of an application to operate a charter school, receives a request to amend a charter contract or approves such an application or request. The bill also requires each sponsor of a charter school to conduct site evaluations of each campus of the charter school during the first, third and fifth years after entering into or renewing a charter contract. (Effective June 3, 2019.)

Online charter schools (S.B. 441). This bill requires a charter school, a committee to form a charter school or a charter management organization to satisfy certain requirements to be authorized as a charter school for distance education. The bill designates the State Public Charter School Authority as the local educational agency for all charter schools for distance education sponsored by the Authority and authorizes the Department of Education to deem a charter school

for distance education sponsored by the Authority to be a local educational agency. Existing law requires a pupil who wishes to enroll full-time in a program of distance education to receive permission from the board of trustees of the school district where the pupil resides; the bill removes that requirement. The bill also prohibits a charter school sponsored by a school district that offers a full-time program of distance education from enrolling a pupil in the program who resides outside that district. (Effective June 1, 2019.)

Renewal of charter contracts (S.B. 451). Under existing law, a charter contract and any renewal of a charter contract must be for a term of 6 years. This bill authorizes the renewal of a charter contract for a term of not less than 3 years but not more than 10 years. (Effective July 1, 2019.)

New school funding formula (S.B. 543). The Nevada Plan for School Finance (the Nevada Plan), originally enacted in 1967, establishes a statewide, formula-based funding method for public schools. Beginning with the 2021-2023 biennium, S.B. 543 generally replaces the Nevada Plan with the Pupil-Centered Funding Plan, which combines money raised pursuant to state law at the local level with state money to provide a certain basic level of support to each pupil in Nevada that is adjusted: (1) to account for variations in the local costs to provide a reasonably equal educational opportunity to pupils; and (2) for the costs of providing a reasonably equal educational opportunity to pupils with certain additional educational needs. The bill creates the State Education Fund and identifies numerous sources of revenues to be deposited into the Fund, in addition to direct legislative appropriations from the State General Fund. This bill also creates the Education Stabilization Account in the State Education Fund and provides for its funding and the use of the money. In addition, the bill creates the Commission on School Funding and prescribes its membership and duties, including making recommendations for the implementation of the Pupil-Centered Funding Plan to the Governor and Legislature. Finally, the bill contains an appropriation and sets forth various responsibilities of the Governor, Legislature, Superintendent of Public Instruction, Department of Education, school districts, public schools, and other educational entities in implementing the Pupil-Centered Funding Plan. (The provisions relating to the Commission on School Funding, appropriations and certain reports to the Legislature are effective July 1, 2019. The other provisions of the bill become effective on passage and approval for the purpose of creating each school district's budget and the Executive Budget for the biennium that begins on July 1, 2021, and on July 1, 2021, for all other purposes.)

ENERGY

Energy conservation (A.B. 54). A.B. 54 changes the term "general purpose light" to "general service lamp" and requires the Director of the Office of Energy to adopt by regulation: (1) a definition of "general service lamp"; and (2) a minimum standard of energy efficiency for general service lamps sold in this State on or after January 1, 2020, which must meet or exceed 45 lumens per watt. The bill also prohibits the sale, on or after January 1, 2020, of general service lamps that do not meet or exceed the minimum standards of energy efficiency established by the Director for lumens per watt of electricity consumed. (Effective October 1, 2019.)

Expanded solar access (A.B. 465). This bill requires electric utilities to offer an expanded solar access program to residential customers and to certain nonresidential customers who consume less than 10,000 kilowatt-hours of electricity per month. (Effective October 1, 2019.)

Natural gas renewable energy recovery (S.B. 154). This bill requires the Public Utilities Commission of Nevada (PUCN) to adopt regulations authorizing a public utility that purchases natural gas for resale to engage in renewable energy activities and to recover all reasonable and prudent costs associated with the utility's participation in a renewable natural gas activity. (Effective May 14, 2019, for administrative purposes and October 1, 2019, for all other purposes.)

Renewable energy facilities (S.B. 298). This bill requires a recipient of partial tax abatements for certain renewable energy facilities to keep or cause to be kept certain records regarding employees of the facility and employees who worked on the construction of the facility for the purposes of determining the wage that must be paid to employees of a facility and employees working on the construction of a facility in order for the facility to be eligible for a partial tax abatement. (Effective July 1, 2020; expires June 30, 2049.)

Alternative rate-making plans (S.B. 300). This bill requires the PUCN to adopt regulations establishing procedures for an electric utility to apply to the PUCN for the approval of an alternative rate-making plan, which establishes the alternative rate-making mechanisms the utility is authorized to use to set rates during the period of the plan.

The bill requires the PUCN to conduct a consumer session before acting on such an application. The bill further provides that the PUCN may only approve an application for the approval of an alternative rate-making plan if the PUCN determines that the plan meets certain requirements. The bill also provides that an alternative rate-making plan may include certain provisions, including a mechanism for sharing earnings with customers of the utility. (Effective May 29, 2019.)

Renewable energy portfolio standard (S.B. 358). S.B. 358 declares it to be Nevada's policy to become a leading producer and consumer of clean and renewable energy, with a goal of achieving by 2050 an amount of energy production from zero carbon dioxide emission resources that is equal to the total amount of electricity sold by providers of electric service in Nevada. Among other things, the bill requires each provider of electric service, by calendar year 2030 and during each calendar year thereafter, to generate or acquire electricity from renewable energy systems in an amount equal to at least 50 percent of the total amount of electricity sold by the provider to retail customers in Nevada during that calendar year. (Effective April 22, 2019.)

704B applications (S.B. 547). The bill revises the requirements under chapter 704B of NRS to change the standards and make it more difficult or costly for the applicant or eligible customer to obtain approval from the PUCN to exit the system. The bill applies prospectively and does not apply to any 704B applicant or eligible customer who has been approved to leave the system or filed an application pursuant to NRS 704B.310 before May 16, 2019.

The bill requires the utility's integrated resource plan to include a proposal for annual limits on the energy and capacity that prospective, eligible customers are authorized to purchase from providers of new electric resources through transactions approved by the PUCN.

Importantly, the bill requires the PUCN to adopt regulations to establish a procedure by which a 704B customer who has left the system may apply to the PUCN to return to purchasing bundled electric service from NV Energy on terms and conditions approved by the PUCN. The bill also limits the number of times a customer may leave the system.

In terms of the changes to the law governing the mechanics of an application and the processing of the application to leave the system, the bill: (1) authorizes an eligible customer to file an application with the PUCN only between January 2 and February 1 of each calendar year; (2) requires the application to be filed with the PUCN not later than 280 days, instead of the current 180 days, before the date on which the customer intends to begin purchasing energy, capacity or ancillary services from a provider of new electric resources; (3) requires additional information to be submitted; (4) requires the specific information included with the application to include information identifying transmission requirements and the extent to which transmission import capacity is needed; (5) prohibits the PUCN from approving the application unless the PUCN determines the application is in the public interest rather than requiring approval unless the PUCN finds the application to be contrary to the public interest; (6) revises the factors the PUCN must consider in determining whether the proposed transaction is in the public interest; (7) revises the terms and conditions the PUCN is required to order if it approves the application; and (8) prohibits approval of an application if approval would cause the energy and capacity that eligible customers are authorized to purchase from providers of new electric resources to exceed the annual limit included in the resource plan of the electric utility that has been accepted by the PUCN. (Effective on passage and approval.)

ENVIRONMENT

Division of Natural Heritage (A.B. 52). This bill creates the Division of Natural Heritage within the State Department of Conservation and Natural Resources. The new Division will assume certain duties of the Nevada Natural Heritage Program, which is abolished by the bill, and provide expertise in the areas of zoology, botany and community ecology. The Division is also required to maintain data systems related to the location, biology and conservation status of plant and animal species and ecosystems. (Effective July 1, 2019.)

Air Force operations in the Desert National Wildlife Refuge (A.J.R. 2). This resolution urges Congress to oppose the proposed expansion of Air Force operations from the Nevada Test and Training Range into additional areas of the Desert National Wildlife Refuge. (Effective June 1, 2019.)

Sage-grouse (A.J.R. 3). A.J.R. 3 expresses support for the implementation of the Nevada Greater Sage-Grouse Conservation Plan and the use of the Nevada Conservation Credit System to provide "compensatory mitigation" on state and federal lands to offset the effects of human-caused disturbances in the habitat of the greater sage-grouse. The resolution also urges that the Bureau of Land Management be directed to require the use of compensatory mitigation in accordance with the Conservation Credit System. (Effective May 28, 2019.)

Fallon Range Training Complex (A.J.R. 7). The U.S. Navy's Fallon Range Training Complex Modernization Project contemplates the allocation of some 600,000 acres of land in five rural Nevada counties to the Navy for the expansion of the Fallon Range Training Complex. This resolution expresses the Legislature's opposition to that proposal. (Effective May 28, 2019.)

Nevada office of the Bureau of Land Management (A.J.R. 8). This resolution expresses concern about an administrative reorganization plan adopted for the Department of the Interior, under which Northern and Southern Nevada are to become parts of separate "unified regions" and the Nevada State Office of the BLM in Reno could potentially be closed. (Effective May 28, 2019.)

Forestry practices and protection of trees and flora (S.B. 56). In relevant part, this bill clarifies that a special permit must be obtained from the State Forester Firewarden to cut, destroy, mutilate, pick or remove any plant or other flora from any private or state lands if the plant is on the list of fully protected species. The bill otherwise revises provisions relating to forestry practices. (Effective May 25, 2019.)

Reduction of greenhouse gas emissions (S.B. 254). This bill requires the Department of Conservation and Natural Resources to submit an annual report that includes a statewide inventory of greenhouse gas emissions and a projection of annual greenhouse gas emissions in this State for the 20 years immediately following the date of the report. The following sectors are to be reviewed for the report: electrical production, transportation, industry, commercial and residential, agriculture and land use. (Effective October 1, 2019.)

Deposit on beverage containers (S.B. 310). This bill would have authorized the establishment of a pilot program for requiring deposits to be paid and refunded on certain recyclable beverage containers sold in this State. The bill also authorized the governing body of a city or the board of county commissioners of a county to establish a pilot program for requiring deposits to be paid and then refunded on certain recyclable beverage containers sold in the city or county, as applicable. The bill was still pending in Senate Finance upon adjournment. (Failed.)

FIRE PROTECTION AND OTHER EMERGENCY SERVICES

District for city fire department (A.B. 4). This bill was requested on behalf of the City of Reno. It would have authorized the governing body of a city to create a fire district for a city fire department and levy a tax for the support of the district. The bill was heard in committee on February 19 but was never acted upon. (Failed.)

Tax levy for fire protection (A.B. 48). Another unsuccessful bill was A.B. 48, requested on behalf of Nye County. It would have authorized, rather than required, a board of county commissioners to levy a tax for the support of a district for a county fire department or a fire protection district created by the commissioners. (Failed.)

Training for first responders relating to persons with developmental disabilities (A.B. 129). This bill requires each applicant for an initial license as an ambulance attendant or firefighter, or for initial certification as an EMT, advanced EMT, paramedic or peace officer, to complete training in identifying and interacting with persons with developmental disabilities. For any such person who is licensed or certified on October 1, 2019, the training must be completed on or before October 1, 2020. (Effective October 1, 2019.)

Peer support counseling sessions (A.B. 260). Confidential communications occurring during a peer support counseling session for law enforcement or public safety personnel are generally privileged against disclosure. An exception has been provided for a subpoena requiring disclosure of such a communication. A.B. 260 eliminates the exception. (Effective May 29, 2019.)

Inspection of buildings equipped with certain fire safety equipment (A.B. 297). This bill requires the owner or operator of a building equipped with a fire damper, smoke damper, or combination fire and smoke damper to have the unit inspected upon installation and periodically thereafter by a certified technician. The bill prescribes the requirements for the inspection. Similar

requirements are imposed for any building equipped with a smoke control system. (Effective July 1, 2019.)

Industrial insurance compensation for stress-related claims (A.B. 492). A.B. 492 expands the circumstances under which an employee is entitled to compensation for an injury or disease caused by stress associated with a mass-casualty incident or other traumatic event. Statutory provisions that otherwise require a minimum period of incapacitation before benefits are payable are amended by the bill to provide an exception for claims of this sort. Finally, in determining the "average monthly wage" of an injured employee for purposes of calculating the amount of compensation payable, the Administrator of the Division of Industrial Relations is required by the bill to include "concurrent wages" earned by an employee from employment with other insured employers. (Generally effective June 3, 2019.)

Interim study on wildfires (A.C.R. 4). This resolution directs the Legislative Commission to conduct an interim study on wildfires, giving consideration to methods of reducing fuels, early responses to wildfires and the economic impact of wildfires. (Effective June 7, 2019.)

Exemption from regulations of State Fire Marshal (S.B. 11). S.B. 11 proposed to exempt Las Vegas and other cities in Clark County from certain regulations of the State Fire Marshal if the city adopted building codes at least as stringent as the most recent editions of the International Fire Code and International Building Code. The bill died in committee. (Failed.)

Cancer as occupational disease for firefighters and persons in related occupations (S.B. 215). This bill expands the range of occupations for which, under certain conditions, cancer is deemed to deemed to be an occupational disease. The bill also expands, for that purpose, the list of substances that are deemed to be known carcinogens that are reasonably associated with specific cancers. (Effective July 1, 2019.)

Natural disaster protection plan (S.B. 329). This bill requires each electric utility periodically to prepare and submit to the PUCN a natural disaster protection plan; the first such plan is due by June 1, 2020. All prudent and reasonable expenditures made by the utility to develop and implement the plan must be recovered from customers of the utility. The bill also generally prohibits any person, other than a qualified electrical worker, from performing any work on the electric infrastructure of an electric utility. (Effective May 22, 2019.)

GAMING

Charitable gaming (A.B. 117). This bill incorporates charitable games into the provisions of law governing charitable lotteries for the purpose of treating all charitable gaming in the same manner. The bill repeals the current provisions of law relating to charitable games and defines the term "charitable game" as a bingo, poker or blackjack game that is operated by a qualified organization. The bill revises the definition of "qualified organization" to: (1) specify that such an organization must be certified by the Department of Taxation or the Internal Revenue Service as not operated for profit; and (2) exclude political organizations. The bill authorizes a qualified organization to operate a charitable lottery if: (1) the qualified organization is registered by the Chair of the Nevada Gaming Control Board to operate a charitable lottery; and (2) the total value of all the prizes offered in charitable lotteries operated by the qualified organization during a calendar year, including the value of all unclaimed cash prizes, does not exceed $500,000 or, if the qualified organization is a qualified professional sports organization, does not exceed $2,000,000.

Further, the bill prohibits the Chair from registering a qualified organization to operate a charitable lottery or charitable game outside this state. (Effective October 1, 2019.)

Gaming employees (A.B. 221). A.B. 221 authorizes employment by a manufacturer or distributor of a person 18 years of age or older to perform software, fabrication and maintenance-related functions on the business premises of the manufacturer or distributor. (Effective July 1, 2019.)

Cannabis regulation (A.B. 533). This lengthy bill generally provides for the regulation of the recreational ("adult-use") and medical marijuana industry in Nevada. Of particular significance to the gaming industry are the provisions of the bill that: (1) in Clark and Washoe counties, mandate a 1,500-foot buffer between any marijuana establishment for which licensure is sought under existing law or under the provisions of the bill and a nonrestricted gaming establishment; and (2) impose a statewide moratorium, until June 30, 2021, on the licensure of "cannabis consumption lounges" by local governments. (Effective on various dates beginning with June 6, 2019.)

Entry fees as gross revenue (S.B. 46). S.B. 46 revises the definition of gross revenue to include cash received as entry fees for contests and tournaments with the exception of all cash and the cost of any noncash prizes paid out to participants that does not exceed the total compensation received for the right to participate in the contests or tournaments. The bill also revises the definition of a service provider and provides that interactive service providers are to be licensed and service providers are to be registered. The bill also allows the Attorney General or a local district attorney to apply to the court for an order authorizing the interception of wire, electronic or oral communications by law enforcement in connection with certain offenses. (Effective May 25, 2019, for administrative purposes and July 1, 2019, for all other purposes.)

Cashless wagering; gaming employees; Open Meeting Law; hosting centers (S.B. 72). This is the omnibus Gaming Control Board bill and addresses cashless wagering, gaming employees, the Open Meeting Law and hosting centers. The bill revises the definition of the term "cashless wagering system" to make it clear the system may be operated by someone other than the licensee. The bill also authorizes the Board to temporarily suspend the registration of a registered gaming employee if he or she is arrested by an agent of the Board. Existing law provides that the Open Meeting Law does not apply to any action or proceeding of the Board that is related to making a determination as to whether: (1) certain violations have occurred; or (2) to file certain complaints with the Commission. Such provisions are scheduled to expire by limitation on May 30, 2019. The bill removes that expiration date. The bill additionally provides that the Open Meeting Law does not apply to any action or proceeding of the Board that is related to: (1) an interpretation of provisions of state law or regulations related to gaming or of the applicability of any federal or state law or regulation to such provisions; or (2) a determination as to whether the Board will issue an industry notice concerning any such interpretation. This bill also requires a registered gaming employee to file a change of employment notice if he or she: (1) is a security guard who is employed in an unarmed position and becomes employed in an armed position; or (2) is not a security guard and becomes employed as a security guard in an unarmed or armed position. The bill additionally revises provisions relating to the submission of an application for registration or renewal of registration as a gaming employee or a change of employment notice to the Board. The bill further adds theft to the list of crimes for which the Board can suspend or object to the registration of a gaming employee (moral turpitude, embezzlement or larceny). Existing law

establishes certain legislative findings relating to hosting centers. The bill revises those findings to provide that technological advances have evolved that allow associated equipment to be located at a hosting center. (Generally effective May 14, 2019, for administrative purposes and July 1, 2019, for all other purposes.)

Mobile gaming and publicly traded corporations (S.B. 73). Current law requires certain persons to apply for and obtain a finding of suitability from the Nevada Gaming Commission if the person acquires, under certain circumstances: (1) beneficial ownership of any voting security of a publicly traded corporation registered with the Commission; (2) beneficial or record ownership of any nonvoting security of a publicly traded corporation registered with the Commission; or (3) beneficial or record ownership of any debt security of a publicly traded corporation registered with the Commission. The bill requires that, except for pension funds and employee benefit plans holding less than 10 percent of the voting securities, a holder of any amount of voting securities of a publicly traded corporation that intends to engage in a "proscribed activity" must notify the Chair of the Board and apply for a finding of suitability with the Commission. "Proscribed activity" includes activity that necessitates a change or amendment to the corporate charter, bylaws, management, policies or operation of a publicly traded corporation, activity that materially influences or affects the affairs of a publicly traded corporation, or any other activity determined by the Commission to be inconsistent with holding voting securities for investment purposes only.

The bill also revises the definition of "gaming device" to include mobile gaming, thereby making mobile gaming subject to the same regulation and control as a gaming device. The bill removes or repeals all provisions with individual references to mobile gaming as a separate nonrestricted gaming license. However, the bill exempts ("grandfathers") from the amendatory provisions of related to mobile gaming: (1) certain persons with a nonrestricted license for a mobile gaming system or such a license for the operation of a mobile gaming system; (2) certain persons who acquire a financial interest in such an operator of a mobile gaming system or the operation of such a system; or (3) a successor in interest of such a person who acquired such a financial interest. (The provisions of the bill that cover publicly traded companies became effective May 29, 2019, for administrative purposes and January 1, 2020, for all other purposes; the rest of the bill is effective July 1, 2019.)

Problem gambling (S.B. 535). Existing law creates the Revolving Account to Support Programs for the Prevention and Treatment of Problem Gambling. The Director of the Department of Health and Human Services administers the Account and is authorized to use the money in the Account to award grants of money or contracts for services to providers of programs for the prevention and treatment of problem gambling and for other related services. Under existing law, the Nevada Gaming Commission is required to deposit quarterly into the Revolving Account an amount that is equal to $2 for each slot machine on which the Commission collects certain gaming license fees. In his budget, the Governor recommended a significant increase in funding for problem gambling and recommended changing the funding mechanism from the $2 slot fee to an amount equal to 0.6 percent of the money collected by the Commission from the fee imposed on state gaming licensees based on their gross revenue. The legislature did not agree with the Governor's recommendations and changed the funding mechanism to a simple general fund appropriation on a Session by Session basis and provided for $4 million in funding over the 2020-2021 biennium. (Effective July 1, 2019.)

HEALTH CARE

Pharmacist gag clause (A.B. 141). This bill forbids a pharmacy benefit manager from prohibiting a pharmacist or pharmacy, other than an institutional pharmacy or a pharmacist working in such a pharmacy, from providing information to a patient concerning the availability of a less expensive alternative or generic drug. The bill also prohibits a pharmacy benefit manager from penalizing a pharmacist or pharmacy, other than an institutional pharmacy or a pharmacist working in such a pharmacy, for selling a less expensive generic drug to such a person. (Effective July 1, 2019.)

Hospitals required to participate in Medicare (A.B. 232). This bill requires each hospital, other than a psychiatric, rural or critical access hospital, to participate as a provider for Medicare. Therefore, each such hospital is required to: (1) be primarily engaged in providing diagnostic and therapeutic services or rehabilitation services to inpatients; and (2) if the hospital has an emergency medical department, provide certain emergency medical care. Existing hospitals are exempted from these requirements until July 1, 2021. (Effective June 5, 2019.)

Sickle cell disease (A.B. 254). A.B. 254 requires the Chief Medical Officer to establish a system for the reporting of information on sickle cell disease and its variants. Various health care facilities that provide screening, diagnostic or therapeutic services are required to report information to that system. Each newborn child who is susceptible to sickle cell disease and its variants is required to be tested and certain testing must be made available to each parent of a child who tests positive. The bill also requires that the list of preferred prescription drugs used for the Medicaid program include prescription drugs essential for the treatment of sickle cell disease and its variants. The Department of Health and Human Services (DHHS) is required to prescribe by regulation a list of supplements essential for treatment that must also be covered by Medicaid. Finally, the bill authorizes a health care practitioner to issue a prescription for certain controlled substances for the treatment of pain caused by sickle cell disease and its variants for a longer period than is otherwise allowed. (Effective June 3, 2019, for administrative purposes and October 1, 2019, for all other purposes.)

E-scripts (A.B. 310). This bill requires a prescription for a controlled substance to be given to a pharmacy by electronic transmission, except in circumstances prescribed by the State Board of Pharmacy by regulation and in certain other cases, including: (1) prescriptions issued by a veterinarian; (2) certain situations where an electronic prescription is not practical or feasible or is prohibited by federal law; (3) when a prescription is not issued to a specific person; and (4) pursuant to a waiver granted by the Board under exceptional circumstances. (Effective June 3, 2019, for administrative purposes and January 1, 2021, for all other purposes.)

Off-campus hospital (A.B. 317). This bill requires each off-campus location of a hospital that provides ambulatory surgery, urgent care or emergency room services to obtain a national provider identifier that is distinct from the national provider identifier used by the main location and any other off-campus locations of the hospital. (Effective July 1, 2019.)

Balance billing (A.B. 469). This bill prohibits an out-of-network provider from collecting from an insured patient any payment for medically necessary emergency medical services in an amount that exceeds the copayment, coinsurance or deductible required by the patient's insurance policy. If the out-of-network provider was previously an in-network provider, the bill sets forth the amounts that must be paid by the insurer and accepted by the provider, which generally vary

(depending on the provider) according to the length of time that has elapsed since the provider ceased to be an in-network provider or the circumstances of the provider's departure from the network. (Effective May 15, 2019, for administrative purposes and January 1, 2020, for all other purposes.)

Tracking and reporting of prices for asthma prescription drugs (S.B. 262). Existing law imposes certain duties on the Department of Health and Human Services, pharmacies and health insurers relating to prescription drugs that the Department determines to be essential for treating diabetes. The Department is required to compile a list of those drugs and a report on the price of the drugs. A health insurer that provides coverage for prescription drugs and uses a formulary is required to disseminate information during each open enrollment period about any drugs on the Department's list that have been removed or will be removed from the formulary during the current plan year or the next plan year. S.B. 262 makes all these provisions equally applicable to prescription drugs that the Department determines are essential for treating asthma. (Effective May 30, 2019, for administrative purposes and October 1, 2019, for all other purposes.)

Study of prescription drug rebates (S.B. 276). S.B. 276 directs the Legislative Commission to appoint a committee to conduct an interim study concerning the costs of prescription drugs in this state and the effect on prescription drug prices of rebates, reductions in price and other payments from drug manufacturers. (Effective July 1, 2019.)

Preferred prescription drugs for Medicaid and CHIP (S.B. 378). This bill generally requires DHHS to manage, direct and coordinate all services relating to prescription drugs under the State Plan for Medicaid and the Children's Health Insurance Program. However, subject to certain requirements, DHHS is authorized to contract with a pharmacy benefit manager or health maintenance organization for the provision of those services. Existing law requires the Department to develop a list of preferred prescription drugs to be used by the Medicaid program. The bill expands the required or authorized use of the list to the Children's Health Insurance Program and the health benefit plans provided by local governments and the Public Employees' Benefits Program. Finally, the bill eliminates the existing Pharmacy and Therapeutics Committee and replaces it with the Silver State Scripts Board. The duties of the Board include identifying the prescription drugs to be included on the list of preferred prescription drugs. (Effective on passage and approval for administrative purposes and January 1, 2020, for all other purposes.)

Appropriation to the Lou Ruvo Center for Brain Health (S.B. 528). This bill included appropriations totaling more than $3 million to the Lou Ruvo Center for the biennium, to be used for research, clinical studies, operations and educational programs. (Effective on passage and approval ($2 million appropriation) and July 1, 2019 (remaining appropriations).)

Patient Protection Commission (S.B. 544). S.B. 544 creates the Patient Protection Commission, consisting of 11 voting members appointed by the Governor and three nonvoting members. The Commission is generally charged with conducting an ongoing review of issues relating to the health care needs of Nevadans and the quality, accessibility and affordability of health care in Nevada. It is also required to facilitate collaboration among the various agencies of state government involved in this area to reduce any duplication of effort among them. (Effective June 7, 2019.)

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INSURANCE AND LITIGATION

Coverage for preexisting conditions (A.B. 170). This bill aligns Nevada law with the provisions of the federal Affordable Care Act that prohibit an insurer from limiting eligibility for a health care plan based on preexisting conditions, claims history or genetic information of the insured. An insurer is prohibited from denying, limiting or excluding a covered benefit or requiring an insured to pay a higher premium, deductible, coinsurance or copay based on the health status of the insured or the covered spouse or dependent of the insured. The bill also requires a health insurer that offers or issues a network plan to report information to the Office for Consumer Health Assistance relating to problems experienced by covered persons in accessing health care services from providers in the network. (Effective May 15, 2019, for administrative purposes and January 1, 2020, for all other purposes.)

Confidentiality provisions in settlement agreements (A.B. 248). If a claimant in any civil action or administrative proceeding involving: (1) a sexual offense; (2) sex discrimination by an employer or landlord; or (3) retaliation in a sex discrimination case enters into a settlement agreement, this bill invalidates any provision in the agreement that purports to prevent a party from disclosing factual information relating to the claim. A court is likewise prohibited from entering an order to that effect. Except in a case involving a public officer or employee, a claimant may require the settlement agreement to prohibit the disclosure of the claimant's identity or any facts that could lead to such a disclosure. The bill specifically authorizes a provision in a settlement agreement that prohibits disclosure by any party of the amount of a settlement. (Effective July 1, 2019.)

Mental or physical examinations (A.B. 285). A.B. 285 authorizes an observer to be present at a mental or physical examination ordered by a court. The bill provides that the observer may be: (1) an attorney for the person undergoing the examination; (2) an attorney for the party producing the person subject to the examination; or (3) the designated representative of such an attorney if the designated representative receives written authorization from the attorney to be the observer at the examination and the representative presents the authorization to the person performing the examination. The bill authorizes an observer to suspend an examination if the person conducting the examination is abusive towards the person being examined or the person conducting the examination exceeds the authorized scope of the examination. This bill also authorizes a person conducting the examination to suspend the examination if the observer attempts to participate in or disrupt the examination. If the examination is suspended, the party subject to the order for the examination may petition a court for a protective order pursuant to the Nevada Rules of Civil Procedure. The bill also authorizes an observer to make an audio or stenographic recording of the examination. (Effective October 1, 2019.)

Construction defects (A.B. 421). A.B. 421 generally liberalizes the provisions governing "constructional" defects, making them more favorable to claimants. Among other things, the bill: (1) simplifies the contents of the required notice of a defect; (2) makes less onerous the provisions governing a prelitigation inspection of the defect; (3) removes provisions that limited a claimant's remedies where a homeowner's warranty was in effect; (4) eliminates certain limitations on the consequential damages recoverable in an action by a claimant; (5) extends, from 6 years to 10 years, the limitations period for such an action, and eliminates the limitations period entirely for certain claims involving fraud; and (6) expands the ability of a unit-owners' association to

participate in an action or other proceedings involving a common-interest community. (Effective October 1, 2019.)

Gestational carriers (AB 472). This bill: (1) prohibits any insurer, excluding Medicaid and insurance provided by local governments for their employees, from denying, limiting or seeking reimbursement for maternity care because the insured acts as a gestational carrier; and (2) deems a child carried by a gestational carrier, for the purposes of a policy of health insurance, to be the child of the person or persons who manifest the intent to be legally bound as the parent of the child. (Effective January 1, 2020.)

Child Support Intercept Program (S.B. 33). S.B. 33 requires insurers to exchange information with the Program at least 5 days before making any payment of $500 or more on certain bodily injury, wrongful death, workers' compensation or life insurance claims. (Effective January 1, 2020.)

Comprehensive insurance regulation (S.B. 86). S.B. 86 is the omnibus bill of the Division of Insurance that makes numerous changes to provisions governing insurance. The bill modifies certain provisions related to expenses incurred for administrative supervision of insurers, and it eliminates reporting requirements for medical liability insurers relating to closed claims. The bill also revises various provisions related to financial statements submitted to the Division, and it adopts a recommendation of the National Association of Insurance Commissioners (NAIC) to require insurers to submit quarterly statements to the Commissioner, as well as to the NAIC. The bill increases the annual assessment that the Commissioner is required to collect from each insurer, and it also increases the fees and changes requirements for the certificate of registration as a service contract provider. In addition, the bill changes provisions related to adjusters, administrators, brokers, captive insurers, domestic surplus lines insurers, and health maintenance organizations. The bill authorizes the Commissioner to assess against an insurer the expenses incurred for the external actuarial review of a rate filing of a health plan. The bill also includes provisions related to a certificate of dormancy, and it makes various other substantive and technical changes affecting the regulation of insurance. (The provisions eliminating reporting certain closed claims involving medical malpractice and the provisions relating to expenses for the actuarial review of a health plan's rate filing were effective June 1, 2019; the provisions relating to providers of service contracts are effective January 1, 2020; and the remainder of the bill is effective October 1, 2019.)

Nevada Life and Health Guaranty Association (S.B. 87). The Association is established by existing law to protect insured persons against the insolvency or "impairment" of an insurer. In part, S.B. 87 bill clarifies that the provisions of statute relating to the Association apply only to insurers who are members of the Association. The bill requires a health maintenance organization that operates in Nevada to be a member of the Association. If a member of the Association is impaired or insolvent, the bill also requires the Association to reissue, at actuarily justified rates, the covered policies or contracts of the insurer. The provisions of existing law that limit the Association's liability in the case of basic hospital, medical and surgical insurance or major medical insurance are made applicable instead to health benefit plans. Finally, the bill authorizes a member insurer, under certain circumstances, to impose a surcharge on premiums to recoup assessments paid by the insurer to the Association. (Effective May 29, 2019, for administrative purposes and January 1, 2020, for all other purposes.)

Consumer litigation funding (S.B. 432). This bill requires certain persons who provide money to a consumer who is a party to a pending legal action, in exchange for an assignment of the proceeds from that action, to be licensed by the Commissioner of Financial Institutions. The bill prohibits such persons from charging fees that exceed a rate of 40 percent annually and otherwise regulates such transactions. (Effective June 5, 2019, for administrative purposes and October 1, 2019, for all other purposes.)

Release of liability (S.B. 435). This bill: (1) authorizes a person who gives a release of liability in connection with any claim for personal injury to rescind the release within 60 days; and (2) provides for a prelitigation exchange of medical records and insurance information, including policy limits, in connection with any claim asserted under a policy of motor vehicle insurance. (Effective October 1, 2019.)

Health insurance (S.B. 481). S.B. 481 makes various changes relating to health insurance. First, it establishes requirements for the issuance of a certificate of authority to a self-funded multiple employer welfare arrangement. Second, it limits short-term health insurance policies by providing that coverage under such a policy generally may not be provided for more than 185 days in any 365-day period. An insurance carrier issuing a health benefit plan that is not being purchased on the Silver State Health Insurance Exchange is required by the bill to provide certain information to consumers about the Exchange. The bill also imposes restrictions on the cancellation or rescission of a short-term limited duration medical plan. (Effective on various dates beginning July 1, 2019.)

Health insurance (S.B. 482). S.B. 482 authorizes the Commissioner of Insurance to provide for reciprocal licenses to health insurers licensed in Arizona, California, Idaho, Oregon or Utah to enable them to do business in Nevada without obtaining a certificate of authority in this state. The bill also authorizes the Commissioner to enter into compacts with regulators in other states to ensure the stability of the insurance market and ensure that essential insurance is available to Nevada residents. Finally, the bill eliminates the 90-day waiting period for health benefit plans for individuals that are not purchased on the Silver State Health Insurance Exchange, as well as the requirement that such plans be made available for purchase at any time during the calendar year. (Generally effective May 29, 2019.)

LABOR AND EMPLOYMENT

Use of sick leave by employees to assist family members with medical needs (A.B. 90). Under this bill, private employers who provide sick leave would have been required to allow the use of such leave to enable an employee to help a member of his or her immediate family with an illness, injury, medical appointment or other authorized medical need. The bill passed the Assembly but died in the Senate, presumably because it was thought to be mooted by S.B. 312, discussed below. (Failed.)

Vocational rehabilitation (A.B. 128). This bill generally increases the maximum permissible length of a program of training or education and job placement assistance for an injured employee, in accordance with the percentage of the employee's permanent physical impairment. It also removes the provision of existing law that makes unappealable an insurer's decision to authorize or deny a third such program relating to the same injury. The bill otherwise revises provisions governing the circumstances under which a program of vocational rehabilitation

may be extended and increases the minimum amount of any lump sum payment of compensation made in lieu of rehabilitation services. (Effective July 1, 2019.)

Pre-employment marijuana screening (A.B. 132). This is a bill that evolved substantially over the course of its progress through the Legislature. In its original form, the bill made it unlawful, without exception, for any employer to fail or refuse to hire a prospective employee who tested positive in a screening test for the presence of marijuana. The bill also made it unlawful to require a prospective employee to submit to a "character assessment." The first reprint of the bill removed the "character assessment" provisions, but added language to chapter 613 of NRS, relating to unlawful employment practices, establishing a "presumption" that an employee with marijuana in his or her system was able to perform the functions of his or her employment and was not a threat to other employees unless the amount of marijuana exceeded the amount required to convict the person of impaired driving. In its final form, the bill retains the "refusal to hire" provisions but provides an exemption "if the prospective employee is applying for a position . . . that requires an employee to operate a motor vehicle . . . or . . . that in the determination of the employer, could adversely affect the safety of others." Although the language is badly worded, it adequately conveys the idea that safety-sensitive positions are exempt from the prohibition of the bill. (Effective January 1, 2020.)

Workers' compensation (A.B. 138). This bill would have reinstated many of the legal rules that resulted in the insolvency of the former State Industrial Insurance System in the 1990s. Under the bill, the workers' compensation statutes were to be "liberally construed" in favor of injured employees and their dependents. Furthermore, the bill would have reversed the burden of proof in these cases, requiring the employer to establish by clear and convincing evidence that an injury did not arise out of and in the course of employment. The bill was never heard in committee and died after its primary sponsor, Assemblyman Michael Sprinkle, resigned from the Legislature. (Failed.)

Notice by employee of sickness or work-related injury (A.B. 181). This bill prohibits any employer from requiring an employee to be physically present at his or her place of work to notify the employer that the employee is sick or has sustained a work-related injury. The employer may, at least, require an employee to give notice that the employee is sick or injured and unable to work. In addition to any other authorized remedy or penalty, an employer who violates the prohibitions of the bill is subject to an administrative penalty of $5,000 per violation and may also be liable for investigative costs and attorney's fees. Enforcement authority is vested with the Labor Commissioner. (Effective May 15, 2019.)

Relocation of call center (A.B. 271). This bill requires an employer who relocates a call center or certain operations of a call center to a foreign country to notify the Labor Commissioner of the relocation and of the number of employees to be displaced by the relocation at least 90 days before the relocation. The bill authorizes the Labor Commissioner to impose civil penalties on an employer who fails to provide the notice and prohibits the employer from receiving any economic development incentive from the State. If the employer has not received any such incentives within the preceding 10 years, the employer must provide any federal WARN Act notices to the Labor Commissioner 90 days before the relocation. (Effective June 7, 2019, for administrative purposes and January 1, 2020, for all other purposes.)

Confidentiality of NERC complaints and protection of whistleblowers in state and local government (A.B. 274). In part, this bill limits access to information related to a complaint filed with the Nevada Equal Rights Commission to such staff members of the Commission as are necessary to process the complaint, and it prohibits those persons from disclosing the information to other officers and employees of the Department of Employment, Training and Rehabilitation. The remaining provisions of the bill generally strengthen provisions of existing law that prohibit retaliation against employees of state or local government who disclose a gross waste of public money or otherwise act as whistleblowers. (Effective May 25, 2019.)

Occupational safety: Construction and entertainment industries (A.B. 290). This bill requires the Division of Industrial Relations to establish "registries," or databases, of construction industry workers and supervisory employees who have successfully completed OSHA-10 or OSHA-30 courses in safety and health hazard recognition, and trainers authorized by OSHA to provide such courses. The database of workers and supervisory employees must be accessible to the public via the Internet. For workers and supervisory employees in the entertainment industry, the bill requires the worker or supervisory employee to obtain a completion card for an OSHA-10 or OSHA-30 course, as applicable, within 15 days after beginning work on a site (as opposed to the date of hiring as provided by existing law). A worker or supervisory employee in the entertainment industry who is employed by any given employer for less than 15 consecutive days is not subject to those requirements. (Effective May 29, 2019, for administrative purposes and January 1, 2020, for all other purposes.)

Annual increase in industrial insurance death benefits (A.B. 370). This bill provides for an annual increase in death benefits in the amount of 2.3 percent for widows, widowers, surviving children or surviving dependent parents who are entitled to death benefits under industrial insurance on account of industrial injuries or disablements from occupational diseases, with compensation to be increased on January 1, 2020, and on January 1 of each year thereafter. This bill further provides that for widows, widowers, surviving children and surviving dependent parents who are entitled to receive death benefits on account of an industrial injury or a disablement from an occupational disease that occurred before July 1, 2019, money in the Fund for Workers' Compensation and Safety may also be used to pay: (1) reimbursement to insurers for the cost of the increase in those death benefits; and (2) the salary and other expenses of administering the payment of those increased death benefits.

The bill further provides that, for widows, widowers, surviving children and surviving dependent parents who are entitled to receive death benefits on account of an industrial injury or a disablement from an occupational disease that occurred before July 1, 2019, assessments against employers who provide accident benefits for injured employees may be used to defray the costs of: (1) reimbursement to insurers for the cost of the increase in those death benefits; and (2) the salary and other expenses of administering the payment of those increased death benefits.

Finally, this bill sets forth the calculation of the base amount of the annual death benefits of a widow, widower, surviving child or surviving dependent parent who is entitled to receive future increases in those death benefits on account of an industrial injury or a disablement from an occupational disease that occurred before January 1, 1994. (Effective July 1, 2019.)

Unemployment contribution to be paid for self-service terminal (A.B. 394). If an employer uses a machine operated by a customer to enter the purchase price of an item and

complete a purchase, this bill would have required the employer to pay for each such machine a quarterly fee to the Administrator of the Employment Security Division in an amount equal to the average unemployment insurance contribution payable by the employer for each of its employees. The bill was widely derided and was never heard in committee. (Failed.)

Noncompete clauses in employment agreements (A.B. 419). This bill would have imposed additional restrictions on the enforcement of such clauses and would have divested courts of their authority to "blue pencil" (revise) overbroad clauses. The Chair of the Assembly Committee on Commerce and Labor, to which the bill was referred, agreed with us that the bill would have undone much of the work done on this subject in 2017, and the bill was never heard. (Failed.)

Minimum wage (A.B. 456). This bill requires the Labor Commissioner to ensure by regulation that beginning on July 1, 2020, the minimum wage for employees is increased by 75 cents each year for 5 years or until the minimum wage: (1) is $12 per hour or more, if the employer of the employee does not offer health insurance to the employee in accordance with regulations adopted by the Labor Commissioner; or (2) is $11 per hour or more, if the employer of the employee offers health insurance to the employee in accordance with regulations adopted by the Labor Commissioner. The bill must be read in conjunction with A.J.R. 10 and S.B. 192, which are described below. (Effective July 1, 2019. The first increase in the minimum wage does not occur until July 1, 2020.)

Minimum wage: Constitutional amendment (A.J.R. 10). Article 15, section 16, of the Nevada Constitution requires private employers to pay a minimum wage of $5.15 per hour if the employer provides certain health benefits to employees or $6.15 per hour if the employer does not provide such benefits. The Constitution also requires the minimum wage to be adjusted each year by the amount of any increase in the federal minimum wage over $5.15 per hour or, if greater, by the cumulative increase in the cost of living measured by the Consumer Price Index (CPI), except that the CPI adjustment for any 1-year period cannot exceed 3 percent. This measure proposes to amend the Nevada Constitution to instead set the minimum wage at $12 per hour worked beginning July 1, 2024, regardless of whether the employer provides health benefits to employees. In addition, the proposed amendment removes the annual adjustment to the minimum wage and instead provides that if at any time the federal minimum wage is greater than $12 per hour worked, the minimum wage is increased to the amount established for the federal minimum wage. In addition, the measure allows the Legislature to establish a minimum wage that is greater than the hourly rate set forth in the Constitution. (Effective July 1, 2024, if approved again by the 2021 Legislature and the voters at the general election of 2022.)

Occupational safety (S.B. 40). Initially, S.B. 40 increases, from 15 working days to 30 calendar days, the period within which an employer must notify the Division of Industrial Relations of the employer's intention to contest the issuance of a citation or the proposed assessment of a penalty by the Division. Existing law prescribes in state statute the administrative fines that may be imposed by the Division for certain violations of occupational health and safety laws; the bill provides that any such fine cannot exceed the amount of the corresponding civil penalty prescribed pursuant to federal law, including any inflation adjustments made to that penalty pursuant to federal law. (Effective May 23, 2019, for administrative purposes and October 1, 2019, for all other purposes.)

Occupational safety (S.B. 119). This bill requires a worker who performs loading, unloading, construction, rigging, installation or similar work at the site of a trade show or convention, and any supervisor of such an employee, to complete -- or present proof of having completed -- an OSHA-10 course, an OSHA-30 course (for supervisors) or an alternative course within 15 days after hiring. An employee who fails to comply with this requirement must be suspended or terminated by the employer, and the bill provides for the imposition of administrative fines against an employer who fails to do so. (Generally effective January 1, 2020; the option of an alternative OSHA course expires on December 31, 2020.)

Collective bargaining for state employees (S.B. 135). This bill authorizes certain employees in the classified service of the executive branch of the State government to organize and join labor organizations and engage in collective bargaining through exclusive representatives, or to refrain from engaging in such activity. The bill also changes the name of the Local Government Employee-Management Relations Board to the Government Employee-Management Relations Board and expands its duties. This measure requires the Board to establish bargaining units for state employees and determine the classifications of the employees within each bargaining unit. In addition, the bill establishes procedures for collective bargaining and for making and amending collective bargaining agreements. Finally, the bill prohibits certain unfair labor practices. (Effective on passage and approval.)

Equal pay (S.B. 166). Existing law prohibits an employer, employment agency, labor organization or joint labor-management committee from discriminating against any person with respect to employment or membership, as applicable, on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origination. Existing federal law provides that an unlawful employment practice with respect to discrimination in compensation occurs when: (1) a discriminatory compensation decision or other practice is adopted; (2) an individual becomes subject to a discriminatory compensation decision or other practice; or (3) an individual is affected by application of a discriminatory compensation decision or other practice.

As introduced, the bill was materially different from federal law and much more onerous for employers. It provided for significantly higher civil penalties, for noneconomic damages and punitive damages. Further, the bill provided that a new cause of action accrued on <u>each</u> date a discriminatory practice was adopted, each date that a person became subject to a discriminatory compensation decision, or each date a person was affected by the discriminatory decision -- i.e., each time wages were paid.

In its final form, the bill is much closer to existing federal law, including: no punitive damages and no noneconomic changes and time limitations that mirror federal law. If federal law is amended to provide greater protections for employees, the bill requires such a complaint to be filed within 300 days after the date on which the unlawful discrimination occurs pursuant to federal law, as amended. The bill further revises the powers of the Nevada Equal Rights Commission to: (1) authorize an award of back pay for a period beginning 2 years before the date of the filing of a complaint regarding an unlawful employment practice and ending on the date the Commission issues an order regarding the complaint; (2) order payment of lost wages or other economic damages in cases involving an unlawful employment practice relating to discrimination on the basis of sex; and (3) under certain circumstances, order a civil penalty, in increasing amounts, for an unlawful employment practice that it determines is willful based on the number of such

practices the person has committed in the previous 5 years. Importantly, the bill requires the Commission to allow the employer to take corrective action within 30 days and thereby avoid the civil penalty. (Effective on passage and approval for administrative purposes and January 1, 2020, for all other purposes.)

Employment discrimination: Right to sue letters (S.B. 177). Existing law provides that a person may file a complaint alleging unlawful discriminatory practices in employment with the Nevada Equal Rights Commission not later than 300 days after the date of the occurrence of the alleged unlawful discriminatory practice in employment. This bill requires the Commission to notify in writing the person who filed the complaint that the person may request the Commission to issue a right-to-sue notice. This bill requires the Commission to issue, upon request, a right-to-sue notice if at least 180 days have passed after the complaint was filed. The bill also requires the Commission to issue a right-to-sue notice if, after a complaint is filed with the Commission, the Commission does not conclude that an unfair employment practice has occurred. The right-to-sue notice must inform the person that the person may bring a civil action in district court not later than 90 days after the date of receipt of the right-to-sue notice against the person named in the complaint. This bill prohibits a person from bringing a civil action in district court unless the civil action is brought not later than 180 days after the act constituting the unfair employment practice occurred, including the period for which this 180-day period is tolled during the pendency of the complaint before the Commission, or not later than 90 days after a right-to-sue notice is received, whichever is later.

Title VII of the Civil Rights Act of 1964 sets forth various employment practices that are unlawful if such practices are based on an individual's: (1) race; (2) color; (3) religion; (4) sex; or (5) national origin. Title VII also provides various forms of legal and equitable relief to individuals against whom such unlawful employment practices were committed. Existing Nevada law provides that a person who has suffered an injury as a result of certain unlawful employment practices may file a complaint with the Nevada Equal Rights Commission if the complaint is based on discrimination because of: (1) race; (2) color; (3) sex; (4) sexual orientation; (5) gender identity or expression; (6) age; (7) disability; (8) religion; or (9) national origin. This bill provides that if a court finds that an employee has been injured as the result of certain unlawful employment practices, the court may award to the employee the same legal or equitable relief that may be awarded to a person pursuant to Title VII if the employee is protected by Title VII or certain provisions of existing law. (Effective October 1, 2019.)

Minimum wage: Health benefits (S.B. 192). As noted above, the Nevada Constitution establishes a minimum wage to be paid to employees, which varies according to whether an employer offers health benefits to employees and their dependents. In relevant part, S.B. 192 establishes the requirements to be met by an employer’s plan of benefits for this purpose. Health benefits provided pursuant to a Taft-Hartley trust are deemed to meet these requirements if the trust qualifies as an employee welfare benefit plan pursuant to ERISA or the Internal Revenue Code. Conversely, certain enumerated plans are identified as insufficient. The amendatory provisions of the bill expire by limitation on November 24, 2022, if the provisions of A.J.R. 10 are agreed to and passed by the 2021 Legislature and approved and ratified by the voters in the 2022 General Election. (Effective May 21, 2019, for administrative purposes and January 1, 2020, for all other purposes.)

Private enforcement of wage and hour provisions (S.B. 306). Had it become law, this bill would have allowed an employee claiming a violation of chapter 608 of NRS to bypass the Labor Commissioner and file an action in district court to recover damages, costs and attorney's fees. After discussions with the sponsor of the bill, she graciously agreed to withdraw it. (Failed.)

Paid time off (S.B. 312). As introduced, S.B. 312 was a sick leave bill that contained the following requirements:

1. Employee to accrue paid sick leave at a rate of not less than 1 hour for every 30 hours worked by the employee (part time or full time);
2. Accrued sick leave carries over between years of employment;
3. Employer required to allow employee to use paid sick leave beginning on the 90th day of employment;
4. Applied to employers with 25 or more employees; and
5. An exemption was provided for certain employers, but the exemption was much more limited and required the paid sick leave to be used for the same purposes and under the same conditions as specified in the bill.

The bill was amended several times and the final product is a vast improvement over the bill as introduced. The bill requires an employer who has 50 or more employees to provide employees 0.01923 hours of paid leave for each hour worked that may be used by an employee beginning on the 90th calendar day of employment. The bill provides that an employee may use paid leave available for use by the employee without providing a reason to his or her employer for such use. The bill also requires an employee, as soon as practicable, to give notice to his or her employer to use the paid leave available for use by that employee.

Limitations on the bill include that the employer may: (1) limit the use of the paid leave to 40 hours per benefit year; (2) limit the amount of paid leave that an employee may carry over to another benefit year to a maximum of 40 hours per benefit year; and (3) set a minimum increment that an employee may use the accrued leave at any one time, not to exceed 4 hours.

Importantly, the bill provides complete exemptions from the bill for: (1) employers who, pursuant to contract, policy, collective bargaining agreement or other agreement, provide paid leave or a policy for paid time off to all scheduled employees at a rate of at least 0.01923 hours of paid leave per hour of work performed; and (2) temporary, seasonal and on-call employees. (Effective on passage and approval for administrative purposes and January 1, 2020, for all other purposes.)

Workers' compensation: Permanent total disability (S.B. 377). This bill provides for a 2.3 percent annual increase in compensation for permanent total disability to claimants and dependents of claimants who are entitled to such compensation because of an industrial injury or disablement that occurred before January 1, 2004, with compensation to be increased on January 1, 2020, and on January 1 each year thereafter. The bill authorizes an insurer or employer who pays the annual increase to obtain reimbursement from the Administrator of the Division of Industrial Relations and establishes the procedure for obtaining such a reimbursement. (Effective July 1, 2019.)

Industrial insurance / workers' compensation (S.B. 381). This bill requires an insurer to: (1) include in its list of physicians and chiropractors from which an injured employee may choose to receive treatment a certain number of physicians or chiropractors, as applicable, from the panel of physicians and chiropractors established and maintained by the Administrator of the Division of Industrial Relations of the Department of Business and Industry; and (2) update and file its list of physicians and chiropractors with the Administrator annually. The bill also provides that, except under certain circumstances, an injured employee may continue to receive treatment from a physician or chiropractor who has been removed from a list. In addition, this bill revises existing provisions to: (1) require the Administrator to annually update the panel of physicians and chiropractors; (2) require the inclusion of physicians and chiropractors on the panel maintained by the Administrator; and (3) provide that an injured employee may change a physician or chiropractor or receive treatment by more than one physician or chiropractor if the insurer provides written authorization or by order of a hearing officer or appeals officer. (Effective January 1, 2020.)

Workers' compensation: Permanent total disability (S.B. 422). This bill was similar to S.B. 377, discussed above, except that it contained no mechanism for spreading the cost of the annual increases in compensation it provided for. More importantly, it contained a "catch up" provision establishing the base amount of compensation as that being received before the effective date of the bill, compounded 15 times at 2.3 percent. It was estimated that this provision would have cost insurers and employers something like $100 million. The bill was never heard. (Failed.)

Employee misclassification (S.B. 493). S.B. 493 revises the definition of "independent contractor" for the construction industry to create a presumption that a person is an independent contractor under certain circumstances. For all employees, the bill defines employee misclassification for all employers as the practice by an employer to improperly classify employees as independent contractors to avoid any legal obligation under state labor and employment laws. The bill prohibits an employer from classifying a person as an independent contractor through means of coercion, misrepresentation or fraud and it prohibits an employer from willfully misclassifying an employee as an independent contractor. The Labor Commissioner is authorized to impose an administrative penalty upon an employer who misclassifies a person as an independent contractor. For a first offense that is unintentional the Labor Commissioner may issue a warning. For the first office that is willful, the Labor Commissioner may issue a fine of $2,500 for the first incident and $5,000 for each employee for the second or subsequent offense. The bill also creates the Task Force on Employee Misclassification to study employee misclassification. (Generally effective July 1, 2019.)

LOCAL GOVERNMENT

ADA ramps and annexation of territory by cities (A.B. 18). Under the single subject of "local governments," this bill: (1) expressly authorizes the governing body of a city to construct, install and maintain ADA-compliant ramps, and to do so within any public easement or right-of-way under certain conditions; and (2) requires the city clerk of a city that annexes territory to give notice of the annexation to each public utility and rural electric cooperative operating within the territorial jurisdiction of the city. (Effective May 23, 2019.)

Open meeting law amendments (A.B. 70). This bill makes various changes to the Open Meeting Law (OML). Among other things, the bill requires the chair of a public body to make reasonable efforts to ensure that members of the public body and the public can hear or observe

each member of the public body attending a meeting by teleconference or videoconference. The bill also requires the public officers and employees responsible for a public meeting to make reasonable efforts to ensure the meeting facilities are large enough to accommodate the anticipated number of attendees. In addition, this measure allows a public body to delegate authority to the chair, executive director, or an equivalent position, to make any decision regarding litigation concerning any action or proceeding in which the public body or any member or employee of the public body is a party or participates or intervenes in an official capacity. The bill requires, under certain circumstances, a subcommittee or working group of a public body to comply with the provisions of the OML. The bill provides penalties and fines for any member of a public body who attends a meeting where any violation of the OML occurs if the member has knowledge of and participates in the violation; and it creates an exception to these penalties and fines where the member violated the OML based on legal advice provided by an attorney employed or retained by the public body. (Effective October 1, 2019.)

Purchasing by local governments (A.B. 86). This bill makes numerous changes to the Local Government Purchasing Act. The bill revises the terminology used in the statute, so that a "bid" becomes a "response" and a "request for bids" is now a "solicitation." Among the changes made by the bill are to: (1) make certain record-retention requirements applicable to all contracts; (2) prescribe the requirements for a solicitation; (3) expand the authority of a local government to use on-line solicitations; (4) increase the monetary threshold for which the advertising of a purchasing contract is required; and (5) add exemptions from the requirements of competitive bidding to include contracts for computer hardware and software. (Effective July 1, 2019.)

Public-sector collective bargaining: Ending fund balance and school district salaries and benefits (S.B. 111). Existing law generally reserves a budgeted ending fund balance of 25 percent of total budgeted expenditures, less capital outlay, in a local government's general fund from negotiations and from consideration by an arbitrator or fact-finder in determining the local government's ability to pay compensation and monetary benefits. S.B. 111 reduces the protected ending fund balance to 16.67 percent. Where the local government employer is a school district, the bill further provides that any money appropriated by the State to provide increases in salaries and benefits is subject to negotiations and must be considered by a fact-finder or arbitrator in determining ability to pay. (Effective July 1, 2019.)

Public-sector collective bargaining: "Supervisory employee" (S.B. 158). Nevada's public-sector collective bargaining statute distinguishes between two types of "supervisory employee" – those who are precluded from being members of the same bargaining unit as the employees under their direction, and those who have no collective bargaining rights at all. With respect to the definition of the former type of supervisory employee, this bill provides that certain police officers, firefighters and other employees in a paramilitary command structure are not supervisory employees simply because they perform some of the duties enumerated in the definition. (Effective July 1, 2019.)

Open meeting law amendments (S.B. 183). This was another bill that died in Senate Finance. It would have required that a revised meeting agenda clearly indicate that it had been revised, what the revisions were and the date of the revisions. With certain exceptions for rural counties, it would also have required the governing body of a county or city to post on its website any proposed ordinance or regulation, in the same manner as other "supporting material" is posted. It also would have revised, yet again, the provisions governing small business impact statements

as they relate to the adoption of administrative regulations under the Nevada Administrative Procedure Act. (Failed.)

MINING

Mining Oversight and Accountability Commission (S.B. 53). Existing law establishes the Commission (MOAC) and requires it to review (but not approve) certain regulations relating to mining. Because MOAC has been moribund for some years, the Division of Environmental Protection sought this bill to enable the adoption of certain mining regulations if MOAC failed to review them within a specified period. In its final form, the bill: (1) eliminates the prohibition against appointing more than two members from the same county to MOAC; (2) permits the reappointment of any person serving as a member of MOAC; and (3) authorizes the submission to and approval of some (but not all) mining regulations by the Legislative Commission or the Subcommittee to Review Regulations if MOAC fails to review them within 30 days. The last of these provisions expires by limitation on June 30, 2020, evidently with the purpose of encouraging the Governor to "reactivate" MOAC and enable it to function. (Effective June 1, 2019.)

MISCELLANEOUS

Air service in Nevada (A.B. 242). This bill creates the Nevada Air Service Development Commission and requires the Commission to establish a program for the award of grants of money from the Nevada Air Service Development Fund, also created by the bill, to air carriers who will serve, or enhance service to, "small hub" airports, "nonhub" airports and certain "large hub" airports in Nevada. (These terms have the meaning ascribed to them in federal regulations.) The general purpose of the bill is to subsidize and expand regional air service in this state. (Effective June 3, 2019.)

Electric scooters and scooter-share programs (A.B. 485). This bill generally makes the rules of the road that apply to bicycles and electric bicycles applicable to electric scooters. Of significance to clients is section 16 of the bill, which authorizes the governing body of a city or county to regulate by ordinance the time, place and manner in which electric scooters are operated in the city or county, as applicable. Any such ordinance must be "generally consistent with" similar regulations applicable to bicycles and electric bicycles and may, among other things, prohibit the use of electric scooters in any specified area or areas of the city or county. The same section authorizes the governing body to regulate the offering of "shared scooters for hire," or so-called "scooter-share programs." An ordinance adopted under this grant of authority may designate locations as off-limits for the "staging" of shared scooters. (Effective June 3, 2019.)

Unarmed combat (S.B. 29). Among other things, this bill authorizes the Nevada Athletic Commission to adopt rules governing contests and exhibitions of unarmed combat, and for this purpose exempts the Commission from the rulemaking requirements of the Nevada Administrative Procedure Act. The bill further authorizes the Commission to issue and revoke licenses to conduct, hold or give such contests or exhibitions, regardless of whether an admission fee is received. A promoter of a contest or exhibition for which no admission fee is imposed, and for which the Commission provides services, is required to pay an additional license fee to the Commission equal to the cost of the services provided. (Effective July 1, 2019.)

Exotic meats (S.B. 85). Any client operating a restaurant that serves venison, moose or elk meat should be aware of this bill, which generally prohibits the importation into Nevada of the

carcass or any part of the carcass of certain animals obtained in another state, territory or country, including moose, elk and certain species of deer. The bill provides that the meat of such an animal may be brought into Nevada if no part of the spinal column, brain tissue or head is attached. (Effective May 16, 2019.)

Towing vehicle from residential complex (S.B. 212). Existing law sets forth certain requirements that must generally be complied with by an owner of real property or an authorized agent of the property owner before a vehicle is towed from a group of apartments or other "residential complex" with a common parking area. This bill provides that a tow operator is the authorized agent of the property owner for this purpose if the operator has entered into a contract for that purpose with the property owner. One of the requirements alluded to above is a requirement that the owner or operator of the vehicle to be towed be notified of the tow at least 48 hours before the tow. This bill provides an exception to the notice requirement and authorizes an immediate tow if the vehicle has previously been given such a notice: (1) for the same or a similar reason in the same complex; or (2) three or more times in the preceding 6 months for any reason in the same complex. Finally, the bill allows an immediate tow, without notice, if the vehicle is parked in a space marked for a specific resident or a specific unit in the complex. (Effective July 1, 2019.)

Innkeepers: Disclosure of information for enforcement of immigration laws (S.B. 229). S.B. 229 proposed to prohibit the owner of any hotel or other place of lodging from releasing to any law enforcement agency, or anyone else, any information relating to the immigration status of a guest or patron of the establishment. The bill would have authorized the district attorney to bring a civil action against the owner for any violation of the prohibition, and recover damages, costs and attorney's fees in addition to injunctive relief. The bill died in Senate Commerce and Labor. (Failed.)

Public records law (S.B. 287). Compliance with the public records law continues to be ever more expensive and burdensome for governmental agencies and employees. (Except, that is, for the Legislature, which seems to have exempted itself from the law.) Among other things, this bill requires a court to impose a civil penalty in a specified amount against any governmental entity found to have "willfully" failed to comply with the law. The required penalties increase with repeated violations, up to $10,000 for three or more violations within any 10-year period. The bill also eliminates the authority of an agency to charge an additional fee for providing a copy of a public record when extraordinary use of personnel or resources is required. And if a requester concludes that the fee charged by an agency for providing a copy is excessive, the bill adds that belief as a basis for filing an action in district court. Public agencies should thoroughly familiarize their public records staff with the bill before it becomes effective. (Effective October 1, 2019.)

Salvage vehicles (S.B. 491). This bill revises the process for obtaining a salvage title or nonrepairable vehicle certificate in cases where an insurance company acquires a motor vehicle through a settlement with the owner of the vehicle. The bill also requires the DMV to issue such a title or certificate for a vehicle to: (1) a salvage pool in certain cases where the vehicle is abandoned at the facility of the salvage pool; and (2) a charitable organization that obtains a donated vehicle and is unable to obtain an endorsed certificate of title. Finally, the bill expands the lien provisions of existing law relating to motor vehicles, boats and personal watercraft kept at a storage facility to include any trailer used to transport such a vehicle, boat or personal watercraft. (Effective July 1, 2019.)

Appropriation to the Reno Rodeo Association (S.B. 501). S.B. 501 included an appropriation of $1 million to the Association for the advance planning and schematic design phases of the master plan to rehabilitate, repair, renovate and improve the Reno-Sparks Livestock Events Center. (Effective on passage and approval.)

TAXATION

Clark County sales and use taxes (More Cops) (A.B. 443). The Clark County Sales and Use Tax Act of 2005 authorizes the Board of County Commissioners of Clark County to impose a sales and use tax in Clark County to employ and equip additional police officers for the Boulder City Police Department, Henderson Police Department, Las Vegas Metropolitan Police Department, Mesquite Police Department and North Las Vegas Police Department. The Act was scheduled to expire on October 1, 2025. This bill removes the prospective expiration of the Act and amendments and other provisions relating thereto, thereby authorizing the imposition of such a tax in Clark County after October 1, 2025. (Effective on passage and approval.)

Sales and use taxes: Marketplace facilitators and referrers (A.B. 445). Existing law imposes upon each retailer a sales tax measured by the gross receipts of the retailer from the retail sale of tangible personal property in this state. Under existing law, a retailer is required to collect the sales tax from the purchaser in a transaction to which the sales tax applies. This bill requires a marketplace facilitator, defined as a person who directly or indirectly facilitates retail sales to customers in this state, to collect and remit sales and use taxes if the marketplace facilitator, in a calendar year or in the immediately preceding calendar year: (1) had cumulative gross receipts from retail sales made to customers in this state, on its own behalf or on behalf of a seller, which exceeded $100,000; or (2) made or facilitated 200 or more separate retail sales transactions, on its own behalf or on behalf of a seller. The bill exempts from the definition of "marketplace facilitator" a person who facilitates vacation or travel packages or rental car or other travel reservations or accommodations. The bill also requires referrers, defined as certain persons who receive a fee in exchange for listing or advertising a product for a seller but do not collect money or other consideration from a customer, to impose, collect and remit sales and use taxes if: (1) 200 or more retail sales to customers in this state result from referrals made by the referrer; or (2) the cumulative gross receipts of sales resulting from such referrals exceed $100,000. (Generally effective October 1, 2019.)

Sales and use taxes: Digital products (A.B. 447). This bill would have imposed sales and use taxes on retail sales of certain "digital products," with the taxes to be administered in the same manner as the existing sales and use taxes on sales of tangible personal property. The bill was still pending in Assembly Ways and Means at the end of session. (Failed.)

Virtual currency exempt from property tax (S.B. 164). The Nevada Constitution and state statute exempt shares of stock, bank deposits and certain other forms of intangible personal property from property tax. This bill similarly exempts virtual currency, as defined by the bill. (Effective July 1, 2019.)

Vapor products (S.B. 263). This bill provides that certain alternative nicotine products and vapor products, including electronic cigarettes, cigars, cigarillos, pipes, hookahs, vape pens and similar products or devices and their components, are regulated and taxed as other tobacco products at a rate of 30 percent of the wholesale price of those products. The Nevada Clean Indoor

Air Act was proposed by an initiative petition and approved by the voters at the 2006 General Election. The Act generally prohibits smoking tobacco within indoor places of employment, within school buildings and on school property, but allows smoking tobacco in certain areas or establishments. The bill defines "smoking" for the purposes of the Act and expressly makes the Act applicable to the use of an electronic smoking device. (Effective dates vary.)

Modified business tax: Tax credit for child adoption (S.B. 325). Under existing law, financial institutions and other employers are required to pay an excise tax (the modified business tax) on wages paid by them. With respect to that tax, the bill would have established a tax credit, in an amount approved by the Department of Taxation, for any donation of money made by a taxpayer to fund the Nevada Child Adoption Grant Program. The bill died in committee. (Failed.)

Transportation projects (S. B. 426). Existing law authorizes a regional transportation commission to prepare recommendations to a board of county commissioners for the imposition of an additional sales tax in the county to provide funding for certain transportation projects. The county commissioners may, at the next ensuing general election, submit the question of the imposition of the sales tax to the voters of the county. Under existing law, any such recommendations and any such election must be held not later than December 31, 2020. This bill extends that deadline to December 31, 2024. (Effective October 1, 2019.)

Lodging surcharge Lake Tahoe (S.B. 461). This bill establishes a $5 tourism surcharge on the per-night charge for the rental of lodgings in the Tahoe Township, the proceeds of which must be used to fund the acquisition, improvement and operation of a multiuse event and convention center in the Township. The bill enacts provisions to govern the issuance of municipal securities by the Tahoe-Douglas Visitor's Authority, which are based on the provisions of existing law governing the issuance of bonds by county fair and recreation boards. (Effective July 1, 2019.)

Commerce tax returns (S.B. 497). This bill eliminates the requirement of existing law that a business entity whose Nevada gross revenue in a taxable year is $4 million or less, and is therefore not subject to the annual commerce tax, must nevertheless file an informational return with the Department of Taxation. (Effective June 3, 2019.)

Modified business tax; ESAs; school safety; school funding (S.B. 551). Existing law imposes an annual commerce tax on each business entity whose Nevada gross revenue in a fiscal year exceeds $4,000,000, with the rate of the commerce tax based on the industry in which the business entity is primarily engaged. S.B. 551 provides that a business entity that pays both the payroll tax and the commerce tax is entitled to a credit against the payroll tax of a certain amount of the commerce tax paid by the entity. Existing law further establishes a rate adjustment procedure to be used by the Department of Taxation to determine whether the rates of the payroll taxes should be reduced in future fiscal years under certain circumstances. The bill eliminates the rate adjustment procedure and maintains and continues the existing legally operative rates of the payroll taxes at 2 percent and 1.475 percent, respectively, without any changes or reductions in the rates of those taxes pursuant to the rate adjustment procedure for any fiscal year. The bill was not approved by a 2/3 vote in the Senate and for that reason is expected to draw a legal challenge. (These provisions of the bill are effective on passage and approval.)

Otherwise, the bill eliminates the Education Savings Account (ESA) program, makes an appropriation for school safety facility improvements and makes additional appropriations of approximately $70 million over the biennium to provide supplemental support for the operation of the school districts. (These provisions are effective July 1, 2019.)

City of Reno Sales Tax (S.B. 556). This bill was requested by the City of Reno. It proposed to authorize the board of county commissioners of a county whose population is less than 700,000 (currently all counties other than Clark County) to recommend the imposition of a property tax at a rate not to exceed 5 cents for each $100 of valuation for consideration by the voters at the 2020 General Election to employ and equip additional sheriff's deputies for the sheriff's office, additional firefighters for the county fire department, or both. The bill would also have authorized the governing body of an incorporated city located in a county whose population is less than 700,000 to recommend the imposition of a property tax at a rate not to exceed 5 cents for each $100 of assessed valuation for consideration by the voters at the 2020 General Election to employ and equip additional police officers, firefighters, or both, for the incorporated city. The bill died in committee in the house of origin. (Failed.)

Property Tax (S.B. 419). S.B. 419 was introduced for the 2019 Legislature as companion legislation to S.J.R.14 to provide for the implementation of S.J.R. 14 if it was approved and passed by the 2019 Legislature and approved and ratified by the voters in the General Election of 2020. The bill died without a hearing. (Failed.)

Property Tax (S.J.R. 14 of the 2017 Session). S.J.R. 14 was passed the first time by the 2017 Legislature. It seeks to amend the Constitution in connection with property taxes. The joint resolution seeks to provide that for the first year after the sale or transfer of real property, the real property is ineligible to for any adjustment to the value of improvements on the real property that is based on the age of the improvement (the existing depreciation of 1.5 percent for each year of adjusted actual age up to a maximum of 50 years). In other words, the depreciation adjustment is reset upon sale or transfer. In addition, for the first year after the sale or transfer of real property the real property is not eligible for the existing abatement or annual cap on the amount of property taxes owed by the real property.

S.J.R. 14 needed to pass the 2019 Legislature to be placed on the 2020 General Election ballot for a vote of the people. However, the 2019 Legislature did not pass S.J.R. 14 a second, required time, and so the measure failed. (Failed.)

TECHNOLOGY

Alternative electronic transportation system vehicles (A.B. 23). This bill: (1) classifies certain vehicles and transportation devices that are remotely controlled or otherwise electronically controlled but do not fall within the definition of "autonomous vehicle" under existing law as "alternative electronic transportation system vehicles." The bill authorizes the DMV to adopt regulations relating to the operation and testing of such vehicles and transportation devices. The bill also authorizes the Department to adopt regulations relating to the operation and testing of alternative electronic transportation system vehicles on highways and premises to which the public has access. (Effective May 23, 2019.)

Regulatory Experimentation Program for Product Innovation (S.B. 161). S.B. 161 requires the Director of the Department of Business and Industry to establish and administer the program, whereby businesses in the "fintech" sector that are accepted into the Program are authorized to test an innovative financial product or service and are relieved of any obligation to comply with some or all of the statutory and regulatory requirements that would otherwise apply to the product or service. Certain limitations are imposed on the initial number of participants in the program, and participation in the program is generally limited to 2 years. The underlying idea is that regulators and the Legislature can evaluate the product or service in a "sandbox" and determine what regulations, if any, are necessary over the long term. (Effective on passage and approval for administrative purposes and January 1, 2020, for all other purposes.)

Amendments to Uniform Electronic Transactions Act (S.B. 162). The UETA generally gives electronic records the same legal status as paper records. In 2017, the Legislature adopted legislation to provide that a blockchain was an electronic record for purposes of the Act, and also prohibited local governments from taxing or regulating the use of a blockchain. S.B. 162 revises and expands the definition of "blockchain" for these purposes to include a public blockchain as defined by the bill. The bill also provides that a person who uses a public blockchain to secure information does not thereby relinquish any right of ownership or use with respect to that information. Finally, the bill begins the process of encouraging governmental agencies to accept, use and process electronic records. The bill requires each agency to consider the use of equipment and software that will enable the agency to send, accept, process, use and rely upon electronic records and electronic signatures whenever the agency acquires, replaces or updates an information processing system or any part of such a system. With certain exceptions, the bill also prohibits an agency from refusing to accept, process, use or rely upon a certified copy of a record from another governmental agency solely because the copy is in electronic form. (Generally effective on October 1, 2019; the provisions relating to the use of electronic records by governmental agencies are effective on January 1, 2020.)

Net neutrality (S.B. 334). This bill would have prohibited state and local governments from entering into a contract with a broadband Internet access service provider who engaged in practices inconsistent with "net neutrality." The bill was still pending in Senate Finance when the Legislature adjourned. (Failed.)

WATER

Water: Extensions of time (A.B. 62). In approving an application to appropriate water, the State Engineer is required under existing law to establish deadlines by which any construction related to the appropriation must be completed and the application of water to a beneficial use must be made. The State Engineer is authorized to extend those deadlines under certain circumstances. This bill directed the State Engineer to adopt any regulations necessary to carry out the foregoing provisions. The bill further required the State Engineer to conduct a study of other jurisdictions in the United States to determine how they manage extensions of time to perfect a right to appropriate water. (Effective June 5, 2019.)

Assessments on water users (A.B. 233). Existing law requires a board of county commissioners, under certain circumstances, to levy a special assessment periodically upon all taxable property in a water basin designated by the State Engineer, with the proceeds of the assessment being used to pay certain salaries and expenses of well supervisors, assistants and the

Well Drillers' Advisory Board. A.B. 233 authorizes the county commissioners instead to pay the salaries and expenses by appropriation from the county general fund if the amount of a special assessment, combined with all other taxes and assessments, is less than the cost of collecting the assessment. (Effective July 1, 2019.)

Groundwater (S.B. 140). In any basin in which there is groundwater that has not been "committed for use" as of June 5, 2019, S.B. 140 requires the State Engineer to "reserve" 10 percent of the total remaining groundwater that has not been committed for use. The water so reserved is "not available for any use," and the bill requires the State Engineer to reject any application for a permit to appropriate any such water. (Effective June 5, 2019.)

Water resource planning (S.B. 150). S.B. 150 generally requires each city council and board of county commissioners to develop and maintain a water resource plan. The plan must identify all known sources of water that are available for use in the city or county, as applicable, and include an analysis of the projected demand for water and the sufficiency, in quantity and quality, of the water available to meet that demand. If the projected demand exceeds supply, there must be a plan to obtain additional water. The plan must be updated at least every 10 years. (Effective July 1, 2019.)

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